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July 21, 1999

VIA FEDERAL EXPRESS

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY
445 12TH ST SW
RM TW-A325
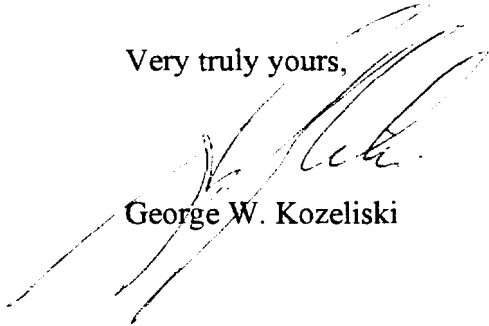WASHINGTON DC 20554

Re: Appeal of Gallup-McKinley County
       Schools; FCC Docket Nos.: 97-21
       and 96-45/Application Number:
       77079

Dear Sir or Madam:

I represent the Gallup-McKinley County Schools. I am enclosing herewith the Gallup-McKinley County Schools' Letter of Appeal along with attached Exhibits A and B.

Thank you very much

Very truly yours,

George W. Kozeliski

GWK:ap
Enclosures
xc: Mr. Robert F. Gomez

No. of Copies rec'd _____
List A B C D E

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LETTER OF APPEAL

In the matter of:	)	FCC Docket Nos. 97-21 and 96-45
Request for Review by Gallup-McKinley	)	Application Number: 77079
County Schools of Decision of Universal	)	Funding Request Number: 00754567
Service Administrator	)	Billing Entity Number: 143257

Gallup-McKinley County Schools, a political subdivision of the State of New Mexico, requests a review pursuant to 54.719(a)-(c) of the Decision of the Universal Service Administrator and, as grounds therefore, states as follows:

(i) **a statement setting forth the party's interest in the matter presented for review.**

Gallup-McKinley County Schools made application for funds to provide internet access for classrooms to its 33 schools within its boundaries, most of which are rural area and located on the Navajo Indian Reservation, some schools located off the reservation or in the City of Gallup, New Mexico.

(ii) **a full statement of relevant, material facts with supporting affidavits and documentation.**

Application was made on April 7, 1998, and the following funding was provided:

Funding Request Number: 00075441
Spin: 143005231
Service Provider: US West
Approximate Cost:
Funding Commitment Amount: $2,527,060.45

Funding Request Number: 00075446
Spin: 143002561
Service Provider: CenturyTel of Southwest - New Mexico
Funding Commitment Amount: $19,405.01

Funding Request Number: 00075457
Spin: 143004417
Service Provider: New Mexico Technet, Inc.
Funding Commitment Amount: $43,680.25

Funding Request Number: 00075460
Spin: 143001192
Service Provider: AT&T Corporation
Funding Commitment Amount: $194,400.00

The funding request for which this appeal is taken and which is required to make the entire service work is the following:

Funding Request Number: 00075467
Spin: 143005607
Service Provider: IBM Corp.
Estimated Funding Commitment Amount: $15,350,959.00

(iii)   question presented for review, with reference, where appropriate, to the relevant Federal Communications Commission rule, Commission order, or statutory provision.

The question presented for review is the letter from Universal Service Administration Co. dated June 28, 1999, a copy of which is attached hereto and made a part hereof as Exhibit A; more particularly, the following two paragraphs:

> "The FRN in question is for internal connections and contains components (such as NetVista, the firewall server and WAN cabling) which are ineligible for funding under the E-rate program and other items for which we were unable to identify a qualified contract under the E-rate program. Although your contracts appear to meet state procurement guidelines, some of them failed to meet program rules for your posted application."

> "There were differences, which appear to be substantial, between the documentation which was submitted during the initial application period and the documentation that was submitted both with your appeal and in response to recent inquiries. In order to provide consistent review and action on applications, the Fund Administrator must rely on the documentation on hand during the review and clarification process."

(iv) **a statement of the relief sought and the relevant statutory or regulatory provision pursuant to which such relief is sought.**

The relief sought is for the award of the $15,350,959.00. Funding Request Number 0075467 was denied because Page 26, Section 3.3.4, of the original contract Gallup-McKinley County Schools had with IBM included the construction of a WAN, however, after FCC 4th order of reconsideration, we rewrote our IBM contract with change order number 2, which was signed on or about April 7, 1999, removing the entire WAN from the IBM contract. The IBM Contract only includes internal wiring of the 33 buildings and a new contract with US West was signed April 7, 1998, to lease the WAN as per the change order from the FCC.
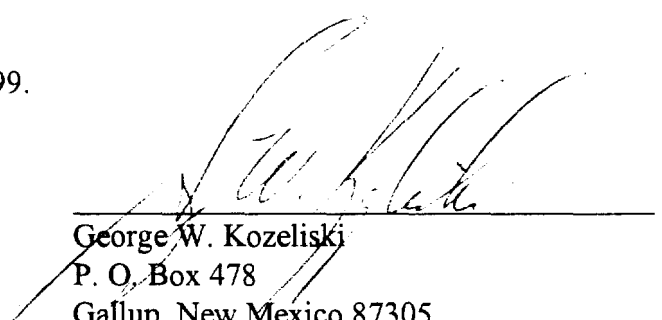
We believe the Universal Service Administration is incorrect in stating that NetVista is not eligible for funding in that we do understand that client application is not eligible for funding and we have not applied for that. What we have applied for is the server application, which is an eligible item and was applied for. We do know that this can be funded because the Ysleta School District in El Paso, Texas, was funded for such a NetVista project by the SLD.

The reason there was a "substantial difference" in documentation submitted is for the reason set out in the first paragraph above and because originally no documentation was requested, and therefore none provided. Thereafter, it was requested by a Program Integrity Assurance individual and all documents were sent in seven faxes. During the initial appeal, Debra Kriete confirmed receipt of only six faxes. The fax not received was the documentation regarding the change to the IBM contract.

A full set of design and contract documents is attached hereto and made a part hereof as Exhibit B.

The IBM Contract was entered into prior to our application, however, before we filed our application, we modified it and took out the WAN from the IBM contract and entered into a contract with US West to lease the WAN and that is funded by part of our application as mentioned above.

Dated this 21st day of July, 1999.

George W. Kozeliski
P. O. Box 478
Gallup, New Mexico 87305
(505) 863-9339
Attorney for Gallup-McKinley County Schools

Attachments

**DOCUMENT AVAILABLE
IN THE LEAD
DOCKET/RULEMAKING**

SEE DOCKET NO. 97-21 FOR THE DOCUMENT.